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October 28, 2020

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VIA ECF

The Honorable Mae A. D'Agostino
United States District Judge
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

Re: *Espejo v. Cornell University*, No. 3:20-cv-00467-MAD-ML
Defendant's Renewed Request to File Motion to Dismiss

Dear Judge D'Agostino:

I represent Cornell University ("Cornell") in this consolidated case. I am writing to renew Cornell's request to file a motion to dismiss, which Cornell initially filed on each of the three initial dockets that were consolidated into this case: *Haynie v. Cornell University*, No. 20-cv-00467, renamed as *Espejo v. Cornell University*; *Faber v. Cornell University*, No. 20-cv-00471; and *Rahman v. Cornell University*, No. 20-cv-00592. Now that Plaintiffs have filed their Amended Consolidated Complaint, Cornell is prepared to move forward with a motion to dismiss the complaint in its entirety by the current responsive pleading deadline of November 10, 2020. Cornell respectfully requests the Court enter an order authorizing the filing of the motion.

As the Court is aware, on June 24, 2020, Cornell filed pre-motion letters in three separate lawsuits challenging Cornell's response to the COVID-19 global health pandemic during the Spring 2020 semester. ECF No. 17; *Faber* ECF No. 23; *Rahman* ECF No. 21. Cornell's letters explained why each complaint failed to state any claim. Plaintiffs represented in their respective responses, and at the Court's pre-motion conference on July 8, 2020, that they intended to file a motion for consolidation of the three cases and a consolidated complaint. ECF No. 18; *Faber* ECF No. 24; *Rahman* ECF No. 22. Cornell agreed that in lieu of proceeding with three separate motions to dismiss, it would wait to file its motion until after the consolidated complaint was filed. Approximately seven weeks later, Plaintiffs filed a consolidation motion. ECF No. 27; *Faber* ECF No. 31; *Rahman* ECF No. 29. This Court granted the motion in part, ECF No. 32, and Plaintiffs filed their Amended Consolidated Complaint on October 27, 2020, ECF No. 33.

Cornell respectfully submits that another round of pre-motion letters is unnecessary at this stage. Four months ago, Cornell laid out the grounds on which it would move to dismiss the entirety of this action (grounds that courts have since relied upon to dismiss similar claims in other lawsuits), and Plaintiffs have failed to cure those deficiencies in their Amended Consolidated Complaint. Requiring the filing of a new pre-motion letter would only add to the delay that Plaintiffs have caused through their delayed filing of the consolidation motion. *See* Consolidation Order of

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October 13, 2020, ECF No. 32, at 5–6 (discussing Plaintiffs’ delay in filing consolidation motion).¹ For these reasons, Cornell respectfully requests the Court enter an order permitting Cornell to file its motion to dismiss the Amended Consolidated Complaint by the responsive pleading deadline of November 10, 2020.

Sincerely,

s/ Ishan K. Bhabha

Ishan K. Bhabha

cc: All Counsel of Record by ECF

¹ Of course, if this Court determines that another round of pre-motion letters would aid its decision on this matter, Cornell stands ready to file a pre-motion letter reiterating the grounds for dismissal.